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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,195	02/18/2004	Shaibal Roy	80240	1759

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EXAMINER
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GARY, ERIKA A

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/781,195

Applicant(s)

ROY, SHAIBAL

Examiner

Erika A. Gary

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1, 7, 11, and 15 are objected to because of the following informalities: at the end of the claims, "the least one negative polling event" should be "the at least one negative polling event". Appropriate correction is required.
2. Claim 11 is objected to because of the following informalities: "An method" should be "A method". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4-7, 10, 11, 14, 15, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Caruso et al., US Patent Application Publication Number 2003/0140092 (hereinafter Caruso).

Regarding claims 1, 7, 11, and 15, Caruso discloses a communications system comprising: at least one data storage device for storing messages for respective users; a plurality of mobile wireless communications devices each associated with a respective user for accessing the messages stored on said at least one data storage device; and

an adaptive polling engine for polling said at least one data storage device for stored messages and providing the polled messages to mobile wireless communications devices of respective users; said adaptive polling engine changing a respective rate of polling for each mobile wireless communications device based upon at least one positive polling event and at least one negative polling event, the at least one negative polling event comprising a lack of authorized communications [figs. 2, 3; paragraphs 0007, 0008, 0016, 0017]

Regarding claim 4, Caruso discloses the at least one negative polling event further comprises a decrease in storage of messages for the respective user at the at least one data storage device [paragraph 0028].

Regarding claim 5, Caruso discloses wherein the at least one positive polling event comprises an increase in storage of messages for the respective user at the at least one data storage device [paragraph 0028].

Regarding claims 6, 10, 14, and 18, Caruso discloses wherein the at least one positive polling event comprises an increase in message access requests from a given mobile wireless communications device [paragraph 0028].

5. Claims 1, 3-7, 9-11, 13-15, 17, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Rezvani et al, US Patent Application Publication Number 2004/0153537 (hereinafter Rezvani).

Regarding claims 1, 7, 11, and 15, Rezvani discloses a communications system comprising: at least one data storage device for storing messages for respective users;

a plurality of mobile wireless communications devices each associated with a respective user for accessing the messages stored on said at least one data storage device; and an adaptive polling engine for polling said at least one data storage device for stored messages and providing the polled messages to mobile wireless communications devices of respective users; said adaptive polling engine changing a respective rate of polling for each mobile wireless communications device based upon at least one positive polling event and at least one negative polling event, the at least one negative polling event comprising a lack of authorized communications [paragraphs 0038, 0042].

Regarding claims 3, 9, 13, and 17, Rezvani discloses wherein the lack of authorized communications with said adaptive polling engine is based upon an invalid user login [paragraph 0134].

Regarding claim 4, Rezvani discloses the at least one negative polling event further comprises a decrease in storage of messages for the respective user at the at least one data storage device [paragraphs 0132-0135].

Regarding claim 5, Rezvani discloses wherein the at least one positive polling event comprises an increase in storage of messages for the respective user at the at least one data storage device [paragraphs 0132-0135].

Regarding claims 6, 10, 14, and 18, Rezvani discloses wherein the at least one positive polling event comprises an increase in message access requests from a given mobile wireless communications device [paragraphs 0132-0135].

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 8, 12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caruso.

Caruso does not specifically disclose that the lack of authorized communication is based upon a given device being outside a wireless coverage area. However, Caruso does teach basing the polling on registration events [paragraph 0020]. Therefore, it would have been obvious to one of ordinary skill in the art to modify Caruso to include that the lack of authorized communication is based upon a given device being outside a wireless coverage area if a positive registration is not received.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 571-272-7841. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EAG  
January 9, 2007

  
ERIKA A. GARY  
PRIMARY EXAMINER